

A close-up photograph of a hand holding a brass compass. The compass face is white with black markings for degrees and cardinal directions (N, S, E, W). The hand is visible in the foreground, holding the compass steady.

Annual Ethics Training  
Departmental Ethics Office  
U.S. Department of the Interior

2018

# GOALS OF TRAINING



- Ensure you are aware of specific ethics laws and regulations
- Help you spot ethics issues
- Assist you in carrying out your duties in an ethical manner
- Protect the integrity of DOI and its programs



# DISCLAIMERS

- **Just the Facts** – No disciplinary action will be taken against an employee if the conduct at issue is in good faith reliance upon the advice of an ethics counselor provided that you made full disclosure of all relevant facts/circumstances
  - **No Get-out-of-jail-free Card** – Only the Department of Justice decides who it will, or will not, prosecute for criminal violations. Fair reliance upon ethics counselor advice will be taken into account
  - **Take Away** – Consult with an ethics counselor before acting
- There is **no attorney-client privilege** between you and an ethics counselor

# BASIC OBLIGATION OF PUBLIC SERVICE

- Each employee has a responsibility to the U.S. Government and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gain
- Each employee shall respect and adhere to the principles of ethical conduct
- Where a situation is not covered by the ethics rules, employees shall apply the principles of ethical conduct in determining whether their conduct is proper



# ETHICAL PRINCIPLES



As an employee, you **shall**:

Place loyalty to the Constitution, the laws, and ethical principles above private gain

Act impartially to all groups, persons, and organizations

Give an honest effort in the performance of your duties

Protect and conserve Federal property

Disclose waste, fraud, abuse, and corruption to appropriate authorities

Fulfill in good faith your obligations as a citizen, and pay your Federal, State, and local taxes

Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap

# ETHICAL PRINCIPLES



As an employee, you **shall not**:

Use public office for private gain

Use nonpublic information to benefit yourself or anyone else

Solicit or accept gifts from persons or parties that do business with or seek official action from your agency (unless permitted by an exception)

Make unauthorized commitments or promises that bind the Government

Use Federal property for other than authorized activities

Take jobs or hold financial interests that conflict with your Government responsibilities

Take actions that give the appearance that they are illegal or unethical



# ETHICAL DECISION-MAKING

When making an ethical decision, always ask yourself two questions:

- Do the ethics rules permit me to take a proposed action (May I?)
- If the rules permit me to take a proposed action, would my action create an appearance that I am less than fair and impartial – or cause a reasonable person to question the integrity of agency programs or operations (Should I?)

# STANDARDS OF ETHICAL CONDUCT—5 C.F.R 2635

The Standards address the following areas:

Subpart B--GIFTS FROM OUTSIDE SOURCES

Subpart C--GIFTS BETWEEN EMPLOYEES

Subpart D--CONFLICTING FINANCIAL INTERESTS

Subpart E--IMPARTIALITY IN PERFORMING OFFICIAL  
DUTIES

Subpart F--SEEKING OTHER EMPLOYMENT

Subpart G--MISUSE OF POSITION

Subpart H--OUTSIDE ACTIVITIES





# CRIMINAL CONFLICT OF INTEREST LAWS

**18 USC § 201** – Prohibits public officials from accepting bribes or gratuities to influence their government actions

**18 U.S.C. § 203** – Prohibits compensation for representational activities involving certain matters in which the U.S. is a party or has a direct and substantial interest

**18 U.S.C. § 205** – Prohibits an employee from certain involvement in a claim against the U.S. or representing another before the Government in matters in which the U.S. is a party or has a direct and substantial interest

**18 U.S.C. § 207** – Imposes restrictions on an employee's activities after leaving Government

**18 U.S.C. § 209** – Prohibits employees from being paid by someone other than the U.S. for doing their official Government duties

# FINANCIAL CONFLICT OF INTEREST

## 18 U.S.C. § 208

Employees are prohibited from:

- **participating** personally and substantially
- in an official capacity in any **particular matter** in which
- to his knowledge, he or any person whose interests are imputed to him
- has a **financial interest**
- if the particular matter will have a **direct and predictable effect** on that interest.



# 18 U.S.C. § 208

Prohibits you from participating in an official capacity in matters that affect **your own** financial interests or the financial interests of someone **imputed** to you under the statute. The financial interests of the following persons will be treated as your own:

- Spouse

- Minor child

- General partner

- An organization where you serve as officer, director, trustee, general partner, or employee

- A person with whom you are negotiating for employment or have an arrangement regarding future employment

# 18 U.S.C. § 208

## Regulatory Exemptions

An employee may participate in a particular matter where the disqualifying financial interest results from:

- Diversified mutual funds
- Publicly traded securities where the aggregate market value of the affected holdings does not exceed \$15,000
- Membership in the Thrift Savings Plan or a pension plan established and maintained by a State government or a political subdivision of a State Government for its employees





# **IMPARTIALITY**

## **5 C.F.R. § 2635.502**

**Employees are prohibited from participating in a specific party matter if:**

- 1. the matter affects the financial interests of a member of his or her household OR someone with whom the employee has a covered relationship is or represents a party to such matter AND**
- 2. a reasonable person with knowledge of the relevant facts would question his or her impartiality in participating in the matter**



# **IMPARTIALITY**

**An employee has a “covered relationship” with:**

- **A person with whom he seeks a business, contractual, or other financial relationship**
- **A member of his household or a relative with whom he has a close personal relationship**
- **A person for whom his spouse, parent, or dependent child serves or seeks to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee**
- **A person for whom he has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee**
- **Any organization (other than a political party) in which he is an active participant**



# IMPARTIALITY



The **Catch-all** provision:

An employee should not participate in any particular matter if he is concerned that other circumstances, i.e., not one of those falling within the identified “covered relationships,” would raise a question regarding his impartiality

- Be aware in certain situations, the Catch-all applies to particular matters of general applicability (regulations and legislation)
- Talk to your Ethics Advisor if you have any questions

# RESOLUTION OF CONFLICTS OR APPEARANCES OF CONFLICTS

- Disqualification/Recusal
- Fall within a Regulatory Exemption
- Reassignment
- Divestiture (voluntary or required)
  - A Certificate of Divestiture may be available to defer tax consequences from selling conflicting financial interests – must be obtained prior to sale of interest
- Qualified Trusts (expensive)
- Individual Waiver/Authorization (rarely given)
- Termination of employment (last resort)





# TEST YOUR KNOWLEDGE

Deborah has been assigned to review a \$500,000 claim filed by the agency's current information technology support contractor. She was employed by this contractor before coming to the agency two years ago. Deborah has a pension plan with the contractor that will entitle her to a monthly payment of \$400 when she reaches the age of 65. Can Deborah participate in the review? Select the correct answer from the following choices.

- A. Deborah cannot participate because she has a financial interest under the criminal conflict of interest law
- B. Deborah may participate because she left the contractor's employment two years ago
- C. Deborah may participate only if she receives a waiver or authorization from the agency
- D. Deborah can participate because she is an honest and fair person and knows that she will not give her former employer any special treatment

# TEST YOUR KNOWLEDGE

**Answer C is correct.** Deborah has a financial interest (her pension plan). If the resolution of the contractor's claim will have a direct and predictable effect on that financial interest, the criminal conflict of interest law (18 U.S.C. 208) would preclude her participation in the review absent a waiver from the agency. Determining whether the resolution of the claim will have a direct and predictable effect on her financial interest will require additional facts. Even if there is no direct and predictable effect under the criminal conflict of interest law, Deborah also has to consider whether her impartiality will be questioned if she participates in the review under the impartiality (appearance) regulation (5 C.F.R. §2635.502). Under the impartiality rule, an employee may not participate in a particular matter that will have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom she has a "covered relationship" is or represents a party to the matter, and where the circumstances would cause a reasonable person to question the employee's impartiality in the matter. While Deborah left the employment of the contractor two years ago and, therefore, does not have a "covered relationship" with the contractor, she should not participate in the review if she is concerned that her impartiality in the matter will be questioned. Given her former relationship with the contractor and her pension plan, this would not be an unreasonable conclusion. Accordingly, Deborah may not review the claim unless she is authorized to do so by her supervisor after consulting with an ethics counselor. The fact that she believes that she will act fairly is not a relevant consideration.



# RESTRICTION ON HOLDING SPECIFIED PROPERTY

Some bureaus and offices have supplemental agency regulations that prohibit or restrict all or a group of employees from holding certain financial interests:

The Secretary and employees of the Office of the Secretary, and employees of other Departmental offices reporting directly to a Secretarial officer who are in positions classified at GS-15 and above may not acquire or hold any direct or indirect financial interest in Federal lands or resources administered or controlled by the Department



# **RESTRICTION ON HOLDING SPECIFIED PROPERTY**

All Department employees, their spouses, and minor children are prohibited from acquiring or retaining any claim, permit, lease, small tract entries, or other rights granted by the Department in Federal lands

This prohibition does not apply to recreational or other personal and non-commercial use of Federal lands on the same terms available to the general public



# USE OF PUBLIC OFFICE FOR PRIVATE GAIN

- You may not use your public office for private gain, your own or that of a friend, relative, or person with whom you are affiliated in a nongovernmental capacity.
- This includes using or permitting the use of your official title, position or authority of your public office to:
  - coerce or induce any person to provide a benefit;
  - imply agency or government sanction or endorsement of your personal activities or those of another; or
  - endorse any product, service or enterprise

# USE OF NONPUBLIC INFORMATION



- You may not engage in a financial transaction using nonpublic information or allow the improper use of nonpublic information to further your own private interests or that of another
- Nonpublic information is information that you gain by reason of your federal employment and that you know, or reasonably should know, has not been made available to the general public, including information that is:
  - routinely exempted from disclosure;
  - designated as confidential by the agency; or
  - has not been disseminated to the general public and is not authorized to be made available to the public on request



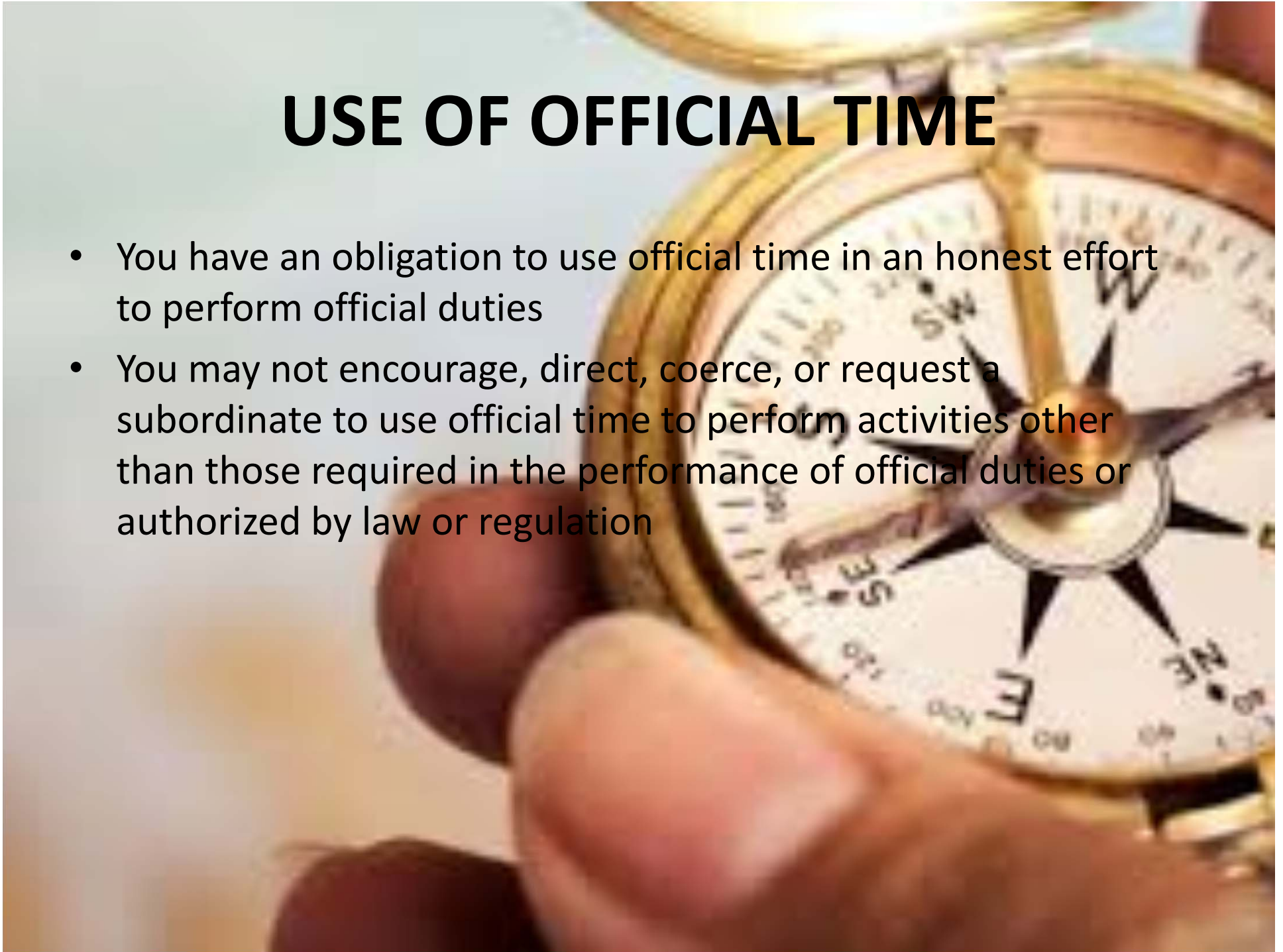
# USE OF GOVERNMENT PROPERTY



- You have a duty to protect and conserve government property and may not use such property, or allow its use, for other than authorized purposes
- Government property includes any real or personal property, including office supplies, telephone and communications equipment and services, government mails, automatic data processing capabilities, printing and reproduction facilities, government records, and government vehicles
- Authorized purposes are those purposes for which the property is made available to the public or those purposes authorized by law or regulation

# USE OF OFFICIAL TIME

- You have an obligation to use official time in an honest effort to perform official duties
- You may not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized by law or regulation





# TEST YOUR KNOWLEDGE

Kim is an acquisition specialist at DOI and has an extensive knowledge of the Federal acquisition process. She is hired on a part-time basis by a company that assists other small businesses seeking government contract work. Kim's outside employer does not do business with DOI. Kim understands that 18 U.S.C. 203 prohibits her from representing her outside employer (or any other person) before DOI or another Federal agency so she limits her participation to behind the scenes assistance, e.g., helping the client draft responses to contract proposals. One day her outside employer calls her at work and asks whether she can help on a rush project for a client. Kim plans to take her lunch break to draft some notes for the client which she will prepare and send using her government computer. In her notes, Kim includes information about potential agency acquisition requirements that she saw in an internal agency memorandum. Has Kim violated any ethics rules? Select the correct answer from the following choices.

- A. Kim did not violate the ethics rules because she engaged in this activity on her own time
- B. Kim did not violate the ethics rules because she is only providing behind the scenes assistance to her outside employer and is not representing them before any Federal agency
- C. Kim violated the rules by not obtaining prior approval to engage in this compensated outside activity
- D. Kim violated the ethics rules by misusing Government property and nonpublic information

# TEST YOUR KNOWLEDGE

Answer D is correct. Government employees may not misuse their official positions. Government equipment, such as a computer, may only be used for authorized purposes, i.e., for those purposes authorized in accordance with law or regulation. While some limited personal use of government office equipment is permitted, that exception does not extend to use in connection with outside work or commercial activities. See Departmental Manual (DM) 410 DM 2, Limited Use of Government Office Equipment and Library Collections. Kim's use of the computer in this case would not fall within the limited personal use exemption. The fact that she engages in this activity on her lunch period does not excuse the violation. To the extent that the information about future agency requirements has not been made public, this would be considered nonpublic information and Kim would not be permitted to provide this information to her outside employer's client. Because her outside employer does not do or seek to do business with her agency, her outside employer would not be considered a prohibited source and Kim, therefore, would not be required to obtain prior approval for this activity under the DOI Supplemental Ethics Regulation. Notwithstanding this fact, outside employment or activity may raise ethical concerns and consulting with an ethics counselor before you engage is prudent and highly recommended.



# GIFTS FROM NON-FEDERAL SOURCES

Unless an exception applies, a Federal employee may not solicit or accept a gift:

Given because of his official position or from a prohibited source

A “prohibited source” is someone who:

- Is seeking official action by the agency
- Does/seek to do business with the agency
- Conducts activities regulated by the agency
- Has interests substantially effected by performance/nonperformance of the employee’s official duties
- An organization a majority of whose members are one of the aforementioned

# WHAT IS NOT A GIFT?

Gifts do not include the following:

- Modest items of food and refreshments that are not part of a meal (i.e., coffee and donuts, but not alcoholic beverages)
- Presentation items of little intrinsic value, e.g., plaques and trophies
- Loans available to the public
- Opportunities-benefits available to all government employees
- Rewards/prizes won in contests open to the public
- Pensions/other benefits from former employers
- Items paid for or secured by the government
- Gifts accepted under specific statutory authority
- Items for which employee pays market value (retail cost)
- Free attendance at events at which an official presentation is given



# COMMON GIFT EXCEPTIONS

The Office of Government Ethics has created a number of exceptions to the general gift prohibition. These exceptions include:

**\$20 or Less** – gifts with an aggregate value of \$20 or less per source/occasion and that do not exceed \$50 per calendar year from the same source

**Personal Relationship** – gifts clearly motivated by a family relationship or personal relationship

**Outside Business/Employment Relationships** – gifts resulting from your own or spouse's employment/business activities and which are not offered or enhanced because of your Federal status

**Discounts/Similar Benefits** – gifts offered to members of a group/class in which membership is unrelated to Government employment

**Widely Attended Gatherings** – gifts of free attendance at widely attended gatherings. Acceptance requires permission/approval using DI Form 1958

# **LIMITS ON USE OF GIFT EXCEPTIONS**

**Even if a gift exception applies, an employee cannot:**

- accept a gift in exchange for an official act (this is a bribe)
- use, or permit the use of his official position or authority associated with his public office to solicit or coerce the offering of a gift
- accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his public office for private gain
- accept a gift in violation of any statute



# CONSIDERATIONS IN DECLINING A PERMISSIBLE GIFT

- An employee should consider declining an otherwise permissible gift if she believes that a reasonable person would **question her impartiality or integrity** as a result of accepting the gift
- Factors the employee should consider:
  - What is the value of the gift
  - What is the timing of the gift
  - What is the identity of the donor (prohibited source)
  - Will acceptance of the gift provide the donor with disproportionate access to the employee or the agency
- It is never inappropriate, and frequently prudent, to decline a gift

# GIFTS BETWEEN EMPLOYEES

Unless an exception applies, a Federal employee may not:

- **Give** (or contribute toward) a gift for an “official supervisor”
- **Accept** a gift from another employee who receives less pay *unless*:
  - No subordinate-official superior relationship exists **AND**
  - A personal relationship justifies the gift
- **Ask** another employee for a contribution towards a gift for an official supervisor



# COMMON EXCEPTIONS

The following may be accepted from a subordinate or employee receiving less pay and nominal, voluntary amount be solicited from others:

- **Gifts valued at \$10 or Less (aggregate value)** – items per occasion
  - NEVER Cash
  - Can't pool money to buy a gift over \$10 for a superior under this exception
- **Food/Refreshments** – if shared in the office by several employees
- **Personal Hospitality/Hostess Gifts** – type and value customarily provided/given
- **Special Infrequent Occasion** – serious illness, marriage, birth or adoption of a child
  - Birthdays and promotions do not qualify
- **Termination of Superior-subordinate Relationship** – retirement, resignation, or transfer

# TEST YOUR KNOWLEDGE

Steve and his boss Jeff are invited by ABC Corp., a company that does business with their agency, to a charity golf tournament. It is anticipated that 100 people will participate in the tournament. The per person cost to attend the tournament, which ABC will pay, is \$200. Steve and Jeff will be paired with two representatives from ABC during the round of golf. Steve and Jeff would like to attend and believe that it will be beneficial to the agency as it would provide them with an opportunity to discuss issues associated with the current support contract with the ABC representatives. After playing in the tournament, Steve plans to take Jeff out to dinner at his favorite steak restaurant to celebrate his birthday. Steve and Jeff have worked together for 20 years and are very close friends. Can Steve and Jeff accept the invitation to the charity golf tournament and can Steve take his close friend Jeff to dinner? Select the correct answer from the following choices.

- A. Steve and Jeff may accept the invitation to the golf tournament because the event is a widely attended gathering and will benefit the agency but Steve may not take Jeff to dinner because he is his boss
- B. Steve and Jeff may not accept the invitation to the golf tournament because the event is not a widely attended gathering but Steve may take Jeff to dinner because of their close friendship
- C. Steve and Jeff may not accept the invitation to the golf tournament and Steve may not take Jeff to dinner
- D. Steve and Jeff may accept the invitation to the golf tournament and Steve can take Jeff to dinner



# TEST YOUR KNOWLEDGE

Answer C is correct. Because it does business with their agency, ABC is considered a prohibited source. Therefore, Steve and Jeff may not accept the offer of free attendance at the golf tournament (a gift) unless an exception to the general gift prohibition applies. One such exception is where the event qualifies as a widely attended gathering and the agency has determined that the employee's attendance will further agency programs and operations. An event qualifies as a WAG if it is attended by a large number of persons and that persons with a diversity of views or interests will be present. While there will be a large number of people in attendance (100), the opportunity for Steve and Jeff to exchange views will be primarily limited to those persons in their foursome. Therefore, the golf tournament, as is the case with most sporting or entertainment events, does not qualify as a WAG. If Steve and Jeff wish to attend the golf tournament, they would have to pay their own way. Even then, Steve and Jeff should consider whether playing golf with representatives from ABC creates any appearance concerns. With regard to the dinner, as a general rule an employee may not give a gift to an official superior. Similarly, an employee may not accept a gift from someone earning less pay unless there is no superior-subordinate relationship and there is a personal relationship that would justify the gift. Because Steve and Jeff have a superior-subordinate relationship, Steve may not give and Jeff may not accept the dinner unless an exception to the general prohibition applies. A subordinate can give a gift valued at \$10 or less on an occasional basis including traditional gift giving occasions such as a birthday or holiday. On special infrequent occasions that either terminate the superior subordinate relationship (e.g., retirement, resignation or transfer) or recognize an event of personal significance (e.g., birth of a child, death, or serious illness), an employee can give an appropriate gift or solicit other employees for contributions to such a gift. In this case, the steak dinner will presumably exceed \$10 and Jeff's birthday is not considered a special infrequent occasion that would permit exceeding the \$10 limit. The fact that Steve and Jeff are close personal friends does not change the analysis here.

# FOREIGN GIFTS



- The U.S. Constitution (Art I, Sec. 9, Cl. 8) prohibits employees from accepting any “present, Emolument, Office or Title from a King, Prince or foreign state” without the consent of Congress
- Congress consented to acceptance of gifts from Foreign Governments in the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342



# FOREIGN GIFTS

- Employees may not solicit a gift from a foreign government
- An employee may accept a gift of **minimal value** (currently \$390 or less) from a foreign government. This is the retail value in U.S. at the time of acceptance
- Gifts in excess of “minimal value” may be accepted on behalf of the U.S. (becomes government property) if declining the gift would result in embarrassment or adversely affect foreign relations
- Gifts accepted on behalf of the U.S. Government must be reported and deposited with the agency

# GIFTS OF TRAVEL BENEFITS



- **Rule:** Agencies may accept payment from a non-Federal source for travel, subsistence, and related expenses in connection with an employee's attendance at a meeting or similar function relating to his official duties. Travel payments for a spouse may also be accepted in certain circumstances
- The gift of travel may not be solicited
- **Acceptance must be authorized in writing in advance of the travel by the travel approving authority**
- Payment must be **in-kind** (e.g., donor purchases the airline ticket) or a **reimbursement** to the agency (i.e., the donor must submit a check made payable to the agency in advance of the approval and travel)



# GIFTS OF TRAVEL BENEFITS



## A Meeting or Similar Function

- **Includes:** conferences, seminars, speaking engagements, symposia, training courses, awards programs, or other similar event sponsored or co-sponsored by a non-Federal source
- **Excludes:**
  - meetings or events required to carry out an agency's statutory or regulatory mission, e.g., investigations, inspections, audits, site visits, compliance reviews, and program evaluations
  - promotional vendor training or other meetings held for the primary purpose of marketing product/services

# GIFTS OF TRAVEL BENEFITS



- Employees must submit Form No. DI-1020 (Travel Authorization) for approval in advance of the travel
- Employees must also submit “Report of Payments Accepted from Non-Federal Sources under 31 U.S.C. 1353” for approval using Form DI-2000
- Copies of approved DI-1020 and DI-2000 must be filed with your ethics counselor



# OUTSIDE EMPLOYMENT AND ACTIVITIES

- **Basic Rule:** An employee shall not engage in outside employment or any other outside activity that conflicts with his official duties
- Employment means:
  - any form of non-Federal business relationship involving the provision of personal services by the employee, with or without compensation
  - Includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker
  - includes writing done under an arrangement with another person for production or publication of the written product

# OUTSIDE EMPLOYMENT AND ACTIVITIES – PRIOR APPROVAL

Prior approval from an ethics counselor is required for outside employment or activity with a **prohibited source**

Prior approval is required regardless of whether the employee is compensated for the outside employment or activity

Form DI Dec 2007 (DOI Ethics Website)

<http://www.doi.gov/ethics/forms/index.cfm>

5 C.F.R. § 3501.105



# OUTSIDE EMPLOYMENT AND ACTIVITIES – PROHIBITED SOURCES

- Prohibited Source – see definition of prohibited sources for gifts from outside sources (Slide 27)
- Agency - The following DOI bureaus and offices are designated separate agency components: BIA (including the Office of Indian Education Programs), BLM, BOR, NIGC, NPS, OSMRE, OST, FWS, USGS
- Employees in DOI bureaus and offices not listed above (including employees within the immediate office of each Assistant Secretary) are employees of the remainder of DOI, which for those employees shall include the designated components noted above as well as those part of DOI not designated as separate.

# OUTSIDE EMPLOYMENT AND ACTIVITIES – POTENTIAL CONCERNS

- 18 U.S.C. 208 – prohibited from participating in an official capacity in any particular matter that would have an effect on your personal or imputed financial interests
- 5 C.F.R. 2635.502 – prohibited from participating in an official capacity in any particular matter in which a person with whom you have a covered relationship is or represents a party where a reasonable person would question your impartiality. This would include:
  - A person with whom you seek or have a business, contractual or other financial relationship
  - A person with whom you have served within the last year as an officer, director, trustee, agent, attorney, consultant, contractor or employee
  - An organization in which you are an active participant
- 18 U.S.C. 203 and 205 – with limited exceptions, prohibited from representing (with or without compensation) any outside person or organization before a federal department or agency



# OUTSIDE EMPLOYMENT AND ACTIVITIES – POTENTIAL CONCERNS

- Federal Acquisition Regulation (FAR 3.6) – prohibited from entering into contracts with Federal employee owned businesses
- Misuse of Official Position – prohibited from using or permitting the use of your official title, position, or authority for the benefit of any outside person or organization
- Misuse of Government Resources - prohibited from using Government resources (official time, property, and nonpublic information) for the benefit of any outside person or organization
- Endorsement – prohibited from using your title, position or authority to endorse (actual or implied) any outside person or organization or their product and services
- Preferential Treatment – prohibited from giving preferential treatment to any outside person or organization

# TEST YOUR KNOWLEDGE

Karen serves in her personal capacity on the curriculum advisory committee for University X of which she is an alumnus. This is a volunteer position for which she receives no compensation. The University is in the early planning stages for a symposium that will focus on environmental issues that are of interest to the agency. The University asks Karen if she would be willing to speak at the symposium in her official capacity and, if she is not available, to recommend another agency employee as a substitute. While Karen generally doesn't support such requests because of her department's limited staffing, she believes that the agency would benefit from participating in the symposium and she would like to help her alma mater if possible. Karen plans to recommend that the agency participate in the symposium. If the agency decides not to support the symposium, Karen will reach out to other agencies who deal with similar environmental issues to see if they would be interested in supporting the symposium. Can Karen recommend that the agency support the symposium? Select the correct answer from the following choices.

- A. Karen may recommend that the agency participate in the symposium because the agency will benefit from its participation
- B. Karen may recommend that the agency participate in the symposium if she receives a waiver or authorization from the agency
- C. Karen may not recommend that the agency participate in the symposium because to do so would create the appearance that she is giving preferential treatment to the University
- D. Karen should refer the University's request to another agency that faces similar environmental issues to see whether they would have an interest in supporting the symposium



# TEST YOUR KNOWLEDGE

Answer B is correct. Karen's relationship with the University raises concerns. She is not paid by the University and it appears unlikely that her unpaid volunteer position on the Curriculum Advisory Committee would make her an officer or employee of the University for purposes of the criminal conflict of interest statute at 18 U.S.C. 208 (imputed financial interest) but that would have to be examined. At a minimum, however, Karen is an active participant on the Committee and she, therefore, has a covered relationship with the University under the impartiality rule. Given her relationship with the University, it is likely that a reasonable person with knowledge of the relevant facts would question her impartiality when participating in the agency's decision as to whether it will support the symposium. Unless her supervisor makes the determination that the interests of the Government in her participation outweighs this impartiality concern and authorizes her to participate, Karen must disqualify herself. The fact that Karen is an honest and fair person, and would make an objective recommendation to the agency without giving the University preferential treatment, is not a relevant consideration. She may not make any recommendation to the agency regarding the symposium (whether she or another agency employee should be made available to speak at the symposium) and she may not reach out to other agencies to seek support for the symposium. Karen should forward the University's request to her supervisor for appropriate action without recommendation or input.

# OFFICIAL PARTICIPATION IN OUTSIDE ORGANIZATIONS

- DOI permits employees to participate in an official capacity in outside professional organizations when it advances the Department's mission, programs and operations, and when participation enhances professional development
- Official participation can take the form of an appointment as an agency liaison to the outside organization or an assignment to serve as an officer, director or trustee where DOI concludes that service as a liaison is not sufficient to accomplish its mission related needs
- Appointment as an **agency liaison** is the preferred approach because the employee acts strictly as a representative of the agency and avoids a potential conflict of interest under 18 U.S.C. 208
- Assignment as an officer or director of the outside organization establishes a fiduciary duty on the part of the employee to the outside organization and this creates a conflict with the employee's duty of loyalty to the Government
- Assignment as an officer or director of the outside organization will require a either a waiver under 18 U.S.C. 208 or approval in accordance with the regulatory exemption in 5 CFR 2640.203(m)



# OFFICIAL PARTICIPATION IN OUTSIDE ORGANIZATIONS

- Requests to serve in an official capacity as an officer, director or board member of an outside organization must be processed and approved in accordance with the procedures in the DOI Scientific Integrity Procedures Handbook (305 DM 3) – **supervisor approval is not enough**
- It requires preparation and final approval of three documents:
  - Approval Request (Appendix I)
  - MOU between DOI and the outside organization (Appendix J)
  - Recusal Statement from the employee (Appendix K)
- Employees will be restricted from performing certain tasks or duties, e.g., being involved in any agency grants, contracts, cooperative agreements or other agreements with the outside organization
- Employees must consult with their servicing ethics counselor in the preparation of these documents is required

# Questions?

**If you have questions about the ethics rules or need assistance, please contact the U.S. Department of the Interior Ethics Office (DEO) at:**

1849 C Street, NW, MS 5311

Washington, DC 20240

Tel: 202-208-7960

Fax: 202-208-5515

E-mail: [DOI\\_Ethics@sol.doi.gov](mailto:DOI_Ethics@sol.doi.gov)

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Website: <https://www.doi.gov/ethics>